

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MAY 2, 1995

The Council of the City of San Jose convened in regular session at 9:30 a.m.

Present: Council Members - Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa Jr., Woody; Hammer.

Absent: Council Members - None.

Vacant: Council District 10.

Upon motion unanimously adopted, Council recessed to a Closed Session at 9:34 a.m. in Room 600 (1) to confer with Real Property Negotiator pursuant to Government Code Section 54956.8 pertaining to the Horizon Center property located at 4 North Second Street, negotiating parties Debra Fegone and Mark McLoone of Johnson Wax and proposed sale of property under negotiation; (2) to confer with Legal Counsel regarding existing litigation pursuant to Government Code Section 54956.9 Subsection (a) pertaining to the cases of the City of San Jose v. Zanker Road Landfill; and The People, ex. rel. v. Acuna, et al.; and (3) to confer with Legal Counsel pertaining to anticipated litigation regarding significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 of the Government Code, to discuss two matters.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:45 a.m. and reconvened at 1:38 p.m. in Council Chambers, City Hall.

Present: Council Members - Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa Jr., Woody; Hammer.

Absent: Council Members - None.

Vacant: Council District 10.

INVOCATION

Cadet 1st. Sgt. Vanessa Connell, delivered a message on the positive benefits of belonging to the Junior ROTC, Mt. Pleasant High School U.S. Marine Corps Junior ROTC (Color Guard). (District 5)

PLEDGE OF ALLEGIANCE

Mt. Pleasant High School U.S. Marine Corps Junior ROTC Color Guard Cadet Lance Corps Liza Agguire, Cadet Lance Corps Angel De Leon, Cadet Staff Sgt. Chris Polk, Cadet Corps Saul Varela, Cadet Staff Sgt. Pelagio Perez, and Cadet 1st Sgt. Vanessa Connell, accompanied by Senior Marine Instructor, Lt. Col. Michael Clough, led in the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Powers, seconded by Council Member Fernandes and unanimously carried, the Orders of the Day and the Amended Agenda were approved. Vote: 10-0-0-0-1. Vacant: District 10.

CEREMONIAL ITEMS

- 5b Presentation of plaques to Gustavo Valadez Ortiz for 4 years 1 month service on the Arts Commission, to Susan George for 1 year service on the Campaign Finance Review and Ethics Board; to Cynthia Waddell for 2 years 4 months service on the Disability Advisory Commission; to Bruce De Mers for 2 years service and to Larry Smith for 2 years service on the Deferred Compensation Advisory Committee. (Mayor)**

Documents Filed: None.

Discussion/Action: Mayor Hammer presented plaques to Cynthia Waddell and Bruce DeMers and thanked them for their service to the citizens of San Jose. Plaques for Gustavo Ortiz, Susan George, and Larry Smith will be mailed, as the honorees were unable to attend the meeting.

Items 9b and 5d were heard together.

- 9b Report on the implementation of the San Jose Aging Services Masterplan. (Woody)
(Rules Committee referral 4/26/95)**

Documents Filed: Memorandum from Council Member Woody as Chair of the Mayor's Aging Leadership Council, dated April 27, 1995, recommending Council accept the report on the first year's progress of implementation of the San Jose Aging Service Master Plan.

9b (Cont'd.)

Discussion/Action: As Chair of the Mayor's Aging Leadership Council and Council Liaison to the Senior Citizens Commission, Council Member Woody summarized the activities of the past year, including objectives of the groups which have been appointed to implement the strategies from the Master Plan. She stated the first year produced the development of the Leadership Council and its Executive Committee, Technical Committee, and six Working Groups, in addition to the Senior Centers Focal Points Network, and the San Jose Foundation on Aging. She stated the success of the project has been to bring together various elements of the community to work collaboratively and cooperatively on aging issues of common concern, with commitment from the County to participate actively in the Plan's implementation, as well as nearly 100 individuals from different sectors throughout the community who have pledged their energy and enthusiasm to the Master Plan's objectives. She pointed out that the City of San Jose's older population, totaling 90,000 age 60 and older, is anticipated to double within the next 20 years in an *Age Wave* and that the San Jose Aging Services Master Plan, *Planning For The Age Wave*, was developed by the City with input and participation of several hundred members to help the City meet the unprecedented growth in its older population. Acknowledging the foresight of the City Council in approving the Master Plan, Council Member Woody stated the City has received state and national recognition of the Master Plan, including an invitation to conduct a panel presentation in Israel on the Aging Leadership Council, September 17-21, 1995. She acknowledged the hard work of Rhunda Boudreaux and Helen Hayashi of her Office, and the commitment of the Aging Leadership Council Staff Deb Bogart--Master Plan Coordinator, Terry Eberhardt--Superintendent, Nadine Felix--Deputy Director, and Najoo Junck--Secretary. With the use of overhead transparencies, Harryette Shuell, Executive Director, Information & Referral Services, Inc., provided Council with an overview of and invitation to the Outreach Workshop with the theme *How to Sound as Good as You Really Are!* which will be held at the Evergreen Community Center on Friday, June 2, 1995, 8:30 a.m. to 4:30 p.m. She stated the purpose of the training session is to provide all attendees with an understanding of the senior service delivery system and the tools to help their constituents access the system. Upon motion by Council Member Woody, seconded by Council Member Fernandes and unanimously carried, the status report on the first year's progress of implementation of the San Jose Aging Services Master Plan, was accepted. Vote: 10-0-0-0-1. Vacant: District 10.

**5d Presentation of proclamation declaring May 1995 as "Older Americans' Month."
(San José Senior Citizens Commission)**

Documents Filed: None.

5d (Cont'd.)

Discussion/Action: Sally Ravel, Chair of the Senior Citizens Commission, accepted the proclamation presented by Mayor Hammer, and thanked the City for proclaiming May 1995 as Older Americans' Month.

CONSENT CALENDAR

Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the Consent Calendar was approved and the below listed actions were taken as indicated. Vote: 10-0-0-1. Vacant: District 10.

Ordinances for Final Adoption

- 6b(1) ORD. NO. 24857 - Amends Title 20 of the San José Municipal Code by adding Section 20.04.164 to define Director and amending Part 4 of Chapter 20.08 to revise the procedures for revoking the legal nonconforming status for uses which create an adverse public impact and expanding the application of such procedures to additional legal nonconforming uses.**

Documents Filed: (1) Memorandum from City Attorney, Joan R. Gallo, dated April 28, 1995, submitting amendments to the Impacts Ordinance. (2) Proof of publication of the title of Ordinance No. 24857 submitted by the City Clerk.

Discussion/Action: Pat Sausedo, representing The Southland Corporation, spoke in support of the proposed changes to the Ordinance, including the preamble prepared by the City Attorney's Office. William J. Garbett spoke against the proposed action. Ordinance No. 24857, entitled: "An Ordinance of the City of San Jose Amending Title 20 of the San Jose Municipal Code by Adding Section 20.04.164 to Define Director and Amending Part 4 of Chapter 20.08 to Revise the Procedures for Revoking the Legal Nonconforming Status For Uses Which Create an Adverse Public Impact and Expanding the Application of Such Procedures to Additional Legal Nonconforming Uses", was adopted. Vote: 9-1-0-0-1. Noes: Diquisto. Vacant: District 10.

6b(2) ORD. NO. 24858 - Rezones certain real property situated on the northwest corner of Berryessa Road and Lundy Avenue PDC 95-01-003

Documents Filed: Proof of publication of the title of Ordinance No. 24858 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24858 was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

Public Hearings Set by Council

6c(1) Adoption of a resolution setting public hearings on Thursday, May 18, 1995 at 7:00 p.m. and Monday, June 19, 1995 at 7:00 p.m. for the Fiscal Year 1995-96 Budget Hearings. (City Manager's Office)

Documents Filed: Memorandum from Assistant to the City Manager, Nina S. Grayson, dated April 14, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 65892, entitled: "A Resolution of the Council of the City of San Jose Setting Public Hearings Related to the Budget", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

**6c(2) Adoption of a resolution initiating proceedings for a conforming prezoning of certain real property situated on the south side of Chaboya Road, opposite Quartuccio Way, from County to A-Agricultural Zoning District, to allow existing uses, and setting a public hearing on said conforming prezoning on May 16, 1995 at 7:00 p.m. . CEQA: Exempt. (Planning, Building and Code Enforcement)
CC 95 -04-025 - District 8
(Rules Committee referral 4/26/95)**

Documents Filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated May 1, 1995, recommending Council place on the Consent Calendar for the May 2, 1995 City Council Agenda said adoption.

Discussion/Action: Resolution No. 65893, entitled: "Resolution of the Council of the City of San Jose Initiating Proceedings On Its Own Motion to Prezone Certain Real Property Situated on the South Side of Chaboya Road, Opposite Quartuccio Way", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

Contracts/Agreements

- 6e(1) (a) Adoption of a resolution declaring 1.973 acres of real property located at the southwest corner of Snell Avenue and Colleen Drive surplus to the needs of the City.**
- (b) Approval of an agreement to transfer the property to the Santa Clara Valley Water District, and authorization for the City Clerk to execute a Quitclaim Deed to the Santa Clara Valley Water District.**
- CEQA: Exempt. (Public Works)**
[Deferred from 4/4/95 and 4/18/95 - Item 6e(1)]

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 17, 1995, recommending Council adopt said resolution and approve said transfer agreement.

Discussion/Action: This item was dropped from the Agenda.

- 6e(2) Adoption of a resolution authorizing the Director of Finance to execute a continuation agreement with Bank of America for banking services for the period January 1, 1995 to December 31, 1996. (Finance)**

Documents Filed: Memorandum from Director of Finance, John V. Guthrie, dated April 14, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 65894, entitled: "A Resolution of the Council of the City of San Jose Authorizing the Director of Finance to Execute a Continuation Agreement With Bank of America for Banking Services", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

- 6e(3) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1994-95 #19, and authorization for the Director of General Services to execute the purchase orders. (General Services)**

Documents Filed: Memorandum from Acting Director of General Services, Ellis M. Jones Jr., dated April 14, 1995, recommending award of said open purchase orders list, and authorize the Director of General Services to execute the purchase orders.

Discussion/Action: The award of open purchase orders List No. 19 for FY 1994-95 was approved and execution of the purchase orders authorized. Vote: 10-0-0-0-1. Vacant: District 10.

- 6e(4) Approval of an agreement with South Bay Metropolitan Officials Association to perform officiating services in the City's Community Sports Program for the period April 1, 1995 to March 31, 1996, at a total cost not to exceed \$90,000. (Neighborhood Services)**

Documents Filed: Memorandum from Director of Neighborhood Services, George J. Penn, dated April 14, 1995, recommending Council approve said agreement.

Discussion/Action: The agreement with South Bay Metropolitan Officials Association was approved and its execution authorized. Vote: 10-0-0-0-1 . Vacant: District 10.

- 6e(5) Approval to allow the low bidder, L. J. Krzich Pipeline Engineering Company Inc., to withdraw its bid proposal and release its bid bond and report on bids, and award of contract for the Fire Station No. 28 Relocation Sanitary Sewer Main Project to the lowest responsive bidder, Mary C. Horlebein, General Engineering, in the amount of \$197,710, and approval of a contingency in the amount of \$30,000. CEQA: ND. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 14, 1995, recommending Council approve said withdrawal and release of bid proposal and bid bond and approve said award.

Discussion/Action: The withdrawal of the low bidder's bid proposal and release of the bid bond were approved and award of contract to lowest responsive bidder Mary C. Horlebein, General Engineering, was approved and execution of the contract authorized. Vote: 10-0-0-0-1. Vacant: District 10.

- 6e(6) Report on bids and award of contract for the Alviso Pool Improvements Project to the low bidder, Sposeto Engineering, Inc., in the amount of \$48,000, and approval of a contingency in the amount of \$10,000. CEQA: Exempt. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 14, 1995, recommending Council approve said award.

Discussion/Action: The award of contract to low bidder Sposeto Engineering, Inc. was approved and execution of the contract authorized. Vote: 10-0-0-0-1. Vacant: District 10.

- 6e(7) Adoption of a resolution declaring a parcel of City-owned land, a portion of vacated Branham Lane at Samaritan Drive, surplus to the needs of the City, and approving the Agreement for the Sale of Surplus City-Owned Real Property to Samaritan Medical Center in the amount of \$3,000, and directing the City Clerk to execute the necessary documents. CEQA: Exempt. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls Jr., dated April 14, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 65895, entitled: "A Resolution of the Council of the City of San Jose Declaring Certain City-Owned Property Surplus to the Needs of the City, Approving An Agreement for the Sale of Surplus City-Owned Real Property to Samaritan Medical Center, and Directing the City Clerk to Execute All Necessary Documents for the Sale of Such Property", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

- 6e(8) Approval of an agreement with the City of Campbell for maintenance of traffic signals under joint jurisdiction. CEQA: Exempt. (Streets and Parks)**

Documents Filed: Memorandum from Director of Streets and Parks, Wayne K. Tanda, dated April 14, 1995, recommending Council approve said agreement.

Discussion/Action: The agreement with the City of Campbell was approved and its execution authorized. Vote: 10-0-0-0-1. Vacant: District 10.

- 6e(9) Approval to amend the reuse and recycling agreements to increase the dollar per ton amount from \$21.10 to \$24.49 with:**

(a) The Salvation Army.

(b) St. Vincent De Paul.

(Environmental Services)

[Deferred from 4/25/95 - Item 6e(4)(b)(c)]

Documents Filed: See minutes of City Council meeting on April 25, 1995, Item 6e(4).

Discussion/Action: The amendment to the agreement with St. Vincent De Paul was approved and its execution authorized, and action on the agreement with The Salvation Army was deferred to May 9, 1995. Vote: 10-0-0-0-1. Vacant: District 10.

- 6e(10) (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with the Community Foundation of Santa Clara County on behalf of the San Jose Education Network in the amount of \$500,000.**
- (b) Adoption of an appropriation ordinance amendment establishing a City-wide appropriation of \$500,000 to the City Manager's Office for the implementation of the agreement with the San Jose Education Network.**
- (City Manager's Office)**
(Rules Committee referral 4/26/95)

Documents Filed: (1) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated April 28, 1995, recommending Council adopt said resolution. (2) Memorandum from Budget Director, Larry D. Lisenbee, dated May 1, 1995, recommending Council approve said appropriation ordinance amendments.

Discussion/Action: William J. Garbett spoke against the proposed action. Resolution No. 65896, entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Manager to Negotiate and Execute a Grant Agreement With the Community Foundation of Santa Clara County on Behalf of the San Jose Education Network", was adopted; and Ordinance No. 24868, entitled: "An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24658 Which Appropriates Moneys in the General Fund to Establish a City-Wide Appropriation in the Amount of \$500,000 for the San Jose Education Network Grant; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

Routine Legislation

- 6f(1) Approval of the appointment of Elvira dela Vega, Director of the Filipino American Chamber of Commerce, to the Revolving Loan Fund Loan Administration Board.**
(Office of Economic Development)

Documents Filed: Memorandum from Assistant Director of Economic Development, Pamela Stone, dated April 14, 1995, recommending Council approve said appointment.

Discussion/Action: The appointment of Elvira dela Vega to the Revolving Loan Fund Loan Administration Board was approved. Vote: 10-0-0-0-1. Vacant: District 10.

**6f(2) Approval of the remaining appointments to the Library Master Plan Task Force.
(Library)**

Documents Filed: Memorandum from City Librarian, James H. Fish, dated April 28, 1995, recommending Council approve additions to the Library Master Plan Task Force.

Discussion/Action: The remaining appointment of Patricia Wolfe, Cammie Chen, Francisco Garcia, Jim King, Sania Meas, Rodney Moore, Rosa Resendez, and Cheryl Washington to serve on the Library Master Plan Task Force was approved.
Vote: 10-0-0-0-1. Vacant: District 10.

6f(3) Adoption of a resolution initiating proceedings and setting May 16, 1995 at 1:30 p.m. as the date for Council consideration of the reorganization of territory designated at Hillview No. 71, which involves the annexation to the City of San José of 4.19 acres of land, located at the easterly terminus of Pleasant Knoll Drive, and the detachment of the same from the Central Fire District. CEQA: ND. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated April 14, 1995, recommending Council place on the Consent Calendar of the May 2, 1995 City Council Agenda adoption of said resolution.

Discussion/Action: Resolution No. 65897, entitled: "Resolution of the Council of the City of San Jose Initiating Reorganization Proceedings for Annexation and Detachment of Certain Uninhabited Territory Designated as Hillview No. 71 and Described Herein, and Setting the Date and Place for Consideration of Such Reorganization", was adopted.
Vote: 10-0-0-0-1. Vacant: District 10.

6f(4) Adoption of a resolution authorizing the reorganization of territory designated as Evergreen No. 180, which involves the annexation to the City of San José of 324+ acres of land, located on the southeast corner of Quimby Road and Ruby Avenue and the detachment of the same from the Central Fire District. CEQA: Resolution No. 63179. (Planning, Building and Code Enforcement)

Documents Filed: None.

Discussion/Action: This item was deferred to June 27, 1995.

END OF CONSENT CALENDAR

COMMISSION, COMMITTEE, AND STANDING REPORTS

7b Report of the Rules Committee - Meeting of April 19, 1995

Documents Filed: Rules Committee report of April 19, 1995.

(1) Review of May 2 Council Agenda

The Committee approved the May 2 Council Agenda with one addition.

(2) Add New Items to April 25 Amended Council Agenda

The Committee recommended five additions to the April 25 Amended Council Agenda

(3) The Public Record. Attachments: (1) Memorandum from City Clerk, Patricia L. O'Hearn, dated April 13, 1995, listing the items transmitted to the Administration. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated April 19, 1995, summarizing actions taken on those items transmitted to the Administration and those items filed for the Public Record.

The Committee recommended approval of the Public Record.

(4) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee

None presented.

(5) City Council and Rules Committee meeting schedules

None presented.

(6) Oral Communications

None presented.

(7) Adjournment

The meeting adjourned at 2:50 p.m.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Diaz and unanimously carried, the Rules Committee report and actions of April 19, 1995 were accepted. Vote: 10-0-0-0-1. Vacant: District 10.

7b Report of the Rules Committee - Meeting of April 26, 1995

Documents Filed: Rules Committee report of April 26, 1995.

- (d) Legislative Report 95-02. Attachment: Memorandum from Director of Inter-governmental Relations, Georgiana Flaherty, dated April 21, 1995, recommending approval of the Legislative Report 95-02 and the recommended City positions for each bill, and attaching the analysis and coordination information for each bill.

AB 53 (Murray) Concealed Weapons Permits

Recommended City Position: OPPOSE

AB 340 (Woods) Surplus Property

Recommended City Position: OPPOSE

AB 616 (Morrow) Occupancy Levels

Recommended City Position: OPPOSE

AB 741 (Kuykendall) Water Quality

Recommended City Position: SUPPORT

AB 1731 (Goldsmith) Land Use: Housing Plan

Recommended City Position: SUPPORT

SB 74 (Leonard) Firearms

Recommended City Position: OPPOSE

SB 302 (Campbell) Negligence: Immunity from Civil Liability

Recommended City Position: AMEND

SB 362 (Kopp) Public Housing: Tenants and Citizenship

Recommended City Position: OPPOSE

SB 1015 (Mello) Assisted Housing Developments

Recommended City Position: SUPPORT

SB 1135 (Costa) Hazardous Waste: Transport Permits

Recommended City Position: SUPPORT

SB 1073 (Costa) Housing Element Reform

Recommended City Position: OPPOSE

The Committee approved the two Legislative Reports and the recommended City positions for each bill.

7b Report of the Rules Committee - Meeting of April 26, 1995 - (Cont'd.)

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Fernandes and unanimously carried, the Rules Committee report and actions of April 26, 1995 on Legislative Report 95-02 were accepted. Vote: 10-0-0-0-1. Vacant: District 10.

LAND USE AND DEVELOPMENT

8a PUBLIC HEARING and adoption of a resolution approving the vacation of a portion of O'Connor Drive, between Forest Avenue and Emory Street, reserving a public service easement over the entire area. CEQA: Resolution No. 65039. (Public Works)

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls Jr., dated April 14, 1995, recommending Council conduct said public hearing and adopt said resolution. (2) Proof of publication of Resolution No. 65815, submitted by the City Clerk, approving a certain map showing that portion of O'Connor Drive between Forest Avenue and Emory Street which Council proposes to vacate.

Discussion/Action: Mayor Hammer opened the public hearing on the subject vacation. Sunny Claggett, representing O'Conner Hospital, and Roger L. Fetterman spoke in support of the proposed vacation. Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the public hearing was closed and Resolution No. 65898, entitled: "Resolution of the Council of the City of San Jose Vacating a Portion of O'Connor Drive Between Forest Avenue and Emory Street and Reserving a Public Service Easement", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

GENERAL GOVERNMENT

9a Report on bids and award of contract for the Fourth Street Sanitary Sewer Rehabilitation Project to the low bidder, M&G Construction, in the amount of \$572,375 and approval of a contingency in the amount of \$60,000. CEQA: Exempt. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls Jr., dated April 14, 1995, recommending Council approve said award.

Discussion/Action: The award of contract to low bidder M&G Construction was approved and execution of the contract authorized. Vote: 10-0-0-0-1. Vacant: District 10.

- 9c Approval of a second year agreement with Reviewco to provide workers' compensation medical cost containment services in an amount not to exceed \$300,000, and authorization for the City Manager to enter into a service agreement for a third year. (Finance)**
(Deferred from 4/4/95 et al., and 4/25/95 - Item 9j)

Documents Filed: Memorandum from Director of Finance, John V. Guthrie, dated April 27, 1995, recommending Council approval to enter into said agreement and execution of said amendment.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson and unanimously carried, the second year agreement with Reviewco and continuation of the program for a third year were approved and execution of the agreements authorized. Vote: 10-0-0-0-1. Vacant: District 10.

- 9d Approval of the appointment of the San José Historical Museum Stabilization Board. (Mayor)**
[Deferred from 4/25/95 - Item 6f(14)]

Documents Filed: Memorandum from Mayor Hammer and Council Member Fernandes, dated May 2, 1995, recommending approval of the appointment of 23 individuals to serve on the San Jose Historical Museum Stabilization Board.

Discussion/Action: Representing the San Jose Historical Museum Volunteers, Ted Rogers urged Council to reconsider the appointment of Joe Head to serve as one of the Co-Chairs. Council Member Fiscalini suggested that Council approve the appointments to the Museum Stabilization Board, withholding the appointment of Joe Head as Co-Chair until some of the group's outstanding issues have been resolved. Upon motion by Council Fernandes, seconded by Council Member Pandori and carried, the appointment of the following individuals to serve on the San Jose Historical Museum Stabilization Board--Joe Head, Co-Chair, Dean Helms, Co-Chair, Gerardo Amador, Harriet Arnold, Ann Atkinson, Bonnie Bamburg, Sheila Breeding, Keith Cakebread, Steve Cox, John W. Davis, Alicelee Ewan, Janice Fox, Bob Kumamoto, Patricia McDonald, Jim Oneal, Pierre Prodis, Judy Rickard, Javier Salazar, Dr. Gary Silver, Tim Starbird, Davide Vieira, Victor Wong, and Richard Zlatunich--were approved. Vote: 9-1-0-0-1. Noes: Fiscalini. Vacant: District 10.

- 9e (1) **Adoption of an ordinance establishing the procedures and methodology for transportation analysis in the Evergreen Development Policy Area; and**
 (2) **Approval of amendments to the Evergreen Development Policy to conform with the ordinance establishing the procedures and methodology for transportation analysis in the Evergreen Development Policy Area and to increase the number of units accommodated by the planned traffic improvements to 4623 residential units in conformance with the preliminary engineer's report for Benefit Assessment District No. 91-209 San José (Aborn-Murillo). CEQA: Resolution No. 65629. (Planning, Building and Code Enforcement)**
(Rules Committee referral 4/26/95)

Documents Filed: None.

Discussion/Action: This item was deferred to May 9, 1995.

FISCAL AFFAIRS

- 10a **PUBLIC HEARING and adoption of a resolution confirming the Report of Unpaid Recycle Plus Bills and direction to place a Special Assessment against the property secured by a lien with the County Recorder. (Finance)**

Documents Filed: (1) Supplemental memorandum from Director of Finance, John V. Guthrie, dated April 27, 1995, summarizing the results of the Administrative Hearing conducted on April 26, 1995 to review issues related to the Notice of Intent to Lien. (2) Memorandum from Director of Finance, John V. Guthrie, dated April 14, 1995, recommending Council adopt said resolution. (3) Affidavit of Mailing of a notice of delinquency and public hearing to each of the persons whose names appear on the list maintained in the Office of the Utility Billing Services, dated April 25, 1995.

Discussion/Action: Mayor Hammer opened the public hearing on said report. Spenser Nutting stated his property is for sale and that his Recycle Plus account is current, with the exception of certain administrative fees. He asked Council to delay the assessment against his property and permit him to meet with Staff. William J. Garbett spoke in opposition to the placing of a special assessment against his property. Upon motion by Council Member Powers, seconded by Council Member Fiscalini and unanimously carried, the lien on APN 46728010, ACCT #22377 was delayed and the Administration directed to meet with the citizen to resolve outstanding concerns, and Resolution No. 65899, entitled: "A Resolution of the Council of the City of San Jose Confirming the Report of Unpaid Recycle Plus Bills And Direction To Place a Special Assessment Lien Against Property", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

ORAL COMMUNICATIONS

- (1) Mr. M. Shakeri addressed Council on issues relating to sidewalk repairs and allegations of harassment by City employees. City Manager and City Clerk to take appropriate actions on citizen's complaints.
- (2) Bill Chew addressed Council on the Channel 35A telecast of the New Realities Task Force meeting.

RECESS/RECONVENE

Following Oral Communications, Council recessed at 2:50 p.m. and reconvened at 7:08 p.m. in Council Chambers, City Hall.

Present: Council Members - Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa Jr., Woody; Hammer.

Absent: Council Members - None.

Vacant: Council District 10.

City Clerk, Patricia L. O'Hearn, read the requests for continuances of applications and other actions as recommended. Upon motion by Council Member Powers, seconded by Council Member Fernandes and unanimously carried, the below noted continuances and other actions were granted. Vote: 10-0-0-1. Vacant: District 10.

- 15b PUBLIC HEARING ON DEVELOPMENT AGREEMENT between the City of San Jose and Cisco Systems, Inc., for a project located at the southeast corner of Tasman Drive and Vista Montana to allow construction of a 576,000 square-foot industrial site on 25.5 gross acres (Mozart Development and Crocker Properties, Owner; Cisco Systems, Inc., Developer). CEQA: Resolution No. 60197. District 4**

Documents Filed: None.

Discussion/Action: This item was continued to May 16, 1995.

- 15c PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the south side of Blossom Hill Road, 1,000 feet west of Winfield Boulevard, from A(PD) to A(PD), to allow up to 66,000 square feet of new self storage buildings on 2.4 gross acres (Herbert P. McLaughlin, Owner/Developer). CEQA: ND.**

PDC 94-09-037 - District 10

(Continued from 2/7/95 et al., and 3/21/95 - Item 15e)

Documents Filed: None.

Discussion/Action: This item was continued to May 16, 1995.

- 15d PUBLIC HEARING ON CONFORMING PREZONING for a project located on the north side of Hamilton Avenue, 60 feet west of Norman Avenue, from County to C Professional Office Zoning District, to allow office uses on .23 gross acres (Adelaide Roberts, Owner/Developer). CEQA: ND.**

C 95-01-006 - District 6

(Continued from 4/4/95 - Item 15e)

Documents Filed: None.

Discussion/Action: This item was continued to May 16, 1995.

- 15e PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the south side of Blossom Hill Road, 220 feet westerly of Hillview Avenue, to allow the demolition of an existing restaurant and the construction of a new restaurant, including a drive-through window on 0.80 gross acre (Hillview Associates/Sydran Food Services, Owner; Burger King Restaurants, Developer). CEQA: ND.**

PDC 94-11-050 - District 10

(Continued from 4/4/95 and 4/18/95 - Item 15c)

Documents Filed: None.

Discussion/Action: This item was continued to June 6, 1995.

- 15h PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the northwest corner of Almaden Expressway and Blossom Hill Road, from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to allow revisions to the approved Planned Development Zoning for construction of a 133,318 square-foot Price Club retail store on 38 gross acres (Brothers International, Owner/Developer). Director of Planning recommends approval. Planning Commission recommends denial (3-4-0). CEQA: ND.
PDCSH 95-03-013 - District 9**

Documents Filed: None.

Discussion/Action: This item was continued to June 6, 1995.

CEREMONIAL ITEMS

- 5a Presentation of proclamation declaring May 1995 as “Water Awareness Month.” (Environmental Services)**

Documents Filed: None.

Discussion/Action: Mayor Hammer acknowledged the statewide program--California Water Awareness Campaign and its Motto: Use Water Wisely; It's a Way of Life--which is promoting water efficiency as a way of life, and presented a proclamation to each of the local water suppliers Ken Krajewski, Director of Water Resources of Great Oaks Water Company; Dan Stockton, Chief Operating Officer of Great Oaks Water Company; Robert Day, Water Conservation Specialist for the San Jose Water Company; and Barbara Nichols, Water Conservation Program Coordinator for the San Jose Municipal Water Service.

- 5c Presentation of proclamation declaring May 1995 as “Youth Month.” (Neighborhood Services)**

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, District 10 Youth Commissioner Brian Root presented a plaque to Sunny Garcia, student at Blackford Alternative High School; District 7 Youth Commissioner Stephanie Kong presented a plaque to Anna Gregory, student at Yerba Buena High School; District 1 Youth Commissioner Catherine Rondeau presented plaques to Christian Higaki, student at Piedmont Hills High School, and to Brian Kleinhofer, student at Bellermine College Preparatory; and Citywide Youth Commissioner Sonia Cifuentes presented a plaque to

5c (Cont'd.)

Jesse E. Jackson, student at Bellermino College Preparatory and National Merit Finalist. Mayor Hammer presented to the Gunderson High School Youth Team--Sigmund Gee, Brian St. Denis, Darshini Mody, Nam Vu, Matt Hubbard, Helen Abdal, Blythe Tucker, Andrew Hitchcock, Leslie Reiter, Jermecia McGuire, and Michael Thompson--a plaque commending the Gunderson Team on winning the Clean Campus Award, and in recognition of some of their accomplishments toward beautification of the campus and the protection of the neighborhood from traffic noise along the new Highway 87, for their participation in a food drive in which 50,000 canned goods were collected for the Second Harvest Food Bank, the successful *Pennies for Leukemia Drive*, and for coordinating the well-attended town hall meetings with Congressman Norm Mineta. On behalf of the City Council, Mayor Hammer presented to each Youth Commissioner a plaque in recognition of their commitment to the youth of San Jose.

**5e Presentation of a commendation to the Independence High School Varsity Wrestling Team. (Diaz/Fernandes)
(Rules Committee referral 4/26/95)**

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Diaz introduced John Sellarole, Principal of Independence High School, and Varsity Wrestling Team Coaches Anthony Palomino and Gene Guerrero; and presented commendations to Eric Guerrero, Tony Gomez, Dana Garcia, Oscar Gonzalez, Jason Palomino, Gabe Araujo, Dion Garza, Ivan Aguayo, Jesse Flores, Tony Diep, Phaly Nou, Joey Garcia, and Jason Tucker in recognition of the 76ers' first California State Championship victory, currently ranked fifth in the Nation, and for their accomplishment in achieving the third highest team score in California state tournament history.

**5f Presentation of a commendation to Los Lupeños dance group. (Diaz/Fernandes)
(Rules Committee referral 4/26/95)**

Documents Filed: None.

Discussion/Action: Joined by Mayor Hammer at the Podium, Council Member Fernandes introduced the members of Los Lupenos de San Jose, a non-profit corporation dedicated to the presentation and promotion of Mexican Folk Culture: Teresa Guerrero-Daley--Chair, Board of Directors; Beverly Taylor--Vice Chair; Juan Avila--Member, Board of

5f (Cont'd.)

Directors; Larry F. Estrada--Member, Board of Directors, Operations Director; Greg Marshall-Clark, Director of Development, Finance & Marketing; Maria De La Rosa, Escuela Coordinator; and Guillermo Fausto, Performing Company Member, and presented to Teresa Guerrero Daley the commendation.

Mayor Hammer and the City Council welcomed Marlise Kruger, Project Manager for the Community Legal Training Program, South African Law School, who is touring the United States with ten delegates from Africa, studying the role of women in politics and in business.

PUBLIC HEARINGS

- 15f PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the west side of Purple Hills Drive, 90 feet south of Castillon Way, from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to allow an approximately 9,300 square-foot addition to an existing church and expansion of an existing church parking lot on 3.26 gross acres (Pacific District Conference of Mennonite Brethren Churches, Owner; Blossom Valley Bible Church, Developer). Director of Planning recommends approval. Planning Commission recommends approval (6-0-1). CEQA: ND. PDC 94-05-019 - District 2**

Documents Filed: (1) Memorandum from the Planning Commission, dated April 19, 1995, recommending Council adopt an ordinance approving the subject rezoning. (2) Notice of Public Hearing to consider a change in Zoning on PDC 94-05-019, dated March 21, 1995. (3) Proof of publication of the Public Hearing Notice submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the planned development rezoning of the subject property. There was no discussion from the Floor. Upon motion by Council Member Powers, seconded by Vice Mayor Johnson and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 24869, entitled: "Ordinance of the City of San Jose Rezoning Certain Real Property Situated on the West Side of Purple Hills Drive, Approximately 90 Feet Southerly of Castillon Way", was passed for publication. Vote: 10-0-0-0-1. Vacant: District 10.

- 15g PUBLIC HEARING ON CONVENTIONAL REZONING of the property located between Montgomery Street and South Autumn Street, 70 feet northerly of West San Fernando Street, from M-1 Manufacturing Zoning District to C-2 Commercial Zoning District, to allow commercial uses on 0.3 gross acre (Sally L. Meduri, Owner; Steve Frederick, Developer). Director of Planning recommends approval. Planning Commission recommends approval (7-0-0). CEQA: Exempt. C 95-02-010 - District 6**

Documents Filed: (1) Memorandum from the Planning Commission, dated April 17, 1995, recommending Council adopt an ordinance approving the subject rezoning. (2) Notice of Public Hearing to consider a change in Zoning for project C 95-02-010, dated March 21, 1995. (3) Proof of Publication of Public Hearing Notice submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the conventional rezoning of the subject property. There was no discussion from the Floor. Upon motion by Council Member Fiscalini, seconded by Council Member Fernandes and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 24870, entitled: "Ordinance of the City of San Jose Rezoning Certain Real Property Situated Between Montgomery Street and South Autumn Street, Approximately 70 Feet Northerly of West San Fernando Street", was passed for publication. Vote: 10-0-0-0-1. Vacant: District 10.

- 15i PUBLIC HEARING ON CONFORMING PREZONING of approximately 0.57 gross acre located on portions of Cherry Grove Drive and Willowhurst Avenue right-of-way west of Meridian Avenue, and Meridian Avenue between Cherry Grove Drive and Willowhurst Avenue, from County Zoning District to A-Agricultural Zoning District. Director of Planning recommends approval. No Planning Commission action required. (Planning) CC 95-03-015**

Documents Filed: (1) Department of City Planning and Building Staff Report on CC 95-03-015, dated April 13, 1995, recommending Council approve the subject prezoning. (2) Public Hearing Notice to consider a change in Zoning on CC 95-03-015, dated April 10, 1995. (3) Proof of Publication of the Public Hearing Notice submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the conforming prezoning of the subject location. There was no discussion from the Floor. Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson and unanimously carried, the public hearing was closed, and Ordinance No. 24871, entitled: "Ordinance of

15i (Cont'd.)

the City of San Jose Rezoning Certain Real Property Situated on Portions of Cherry Grove Drive and Willowhurst Avenue Right-of-Way West of Meridian Avenue, and Meridian Avenue Between Cherry Grove Drive and Willowhurst Avenue”, was passed for publication. Vote: 10-0-0-1. Vacant: District 10.

15a Second PUBLIC HEARING on the National Affordable Housing Act Consolidated Plan and:

- (1) Approval of the 1995-2000 Federal Consolidated Plan, as amended.**
- (2) Authorize the Director of Housing to submit the approved document with the required certifications and other related documents to the U. S. Department of Housing and Urban Development (HUD), no later than the deadline of May 15, 1995.**
- (3) Approval of the modification of the Community Development Block Grant Program (CDBG) application entry criteria to allow consideration of all agencies submitting 1992-93 audits with their applications.**
- (4) Approval of the Administration's recommendations on funding in the Contractual Community Services and Community Development Improvement categories of the Community Development Block Grant (CDBG) Program as outlined in the Consolidated Plan.**
- (5) Approval of staff's recommendation for the policy on allocating of Housing Opportunities for People with AIDS (HOPWA) Program, the HOME Program, and Emergency Shelter Grant (ESG) Program funds. (Housing/Neighborhood Services)**

Documents Filed: (1) Memorandum from Director of Housing Alex Sanchez, and Director of Neighborhood Services George Penn, dated April 14, 1995, recommending Council approve for execution items 1-5. (2) Memorandum from Council Members Fiscalini, Powers, and Shirakawa Jr., dated April 25, 1995, recommending referral to the Housing and Community Services Committee for review and resolution prior to next year's CDBG application deadline the issue of the definition of a qualified disability in the Consolidated Plan. (3) Memorandum from Council Member Shirakawa Jr., as Chair of CDBG Steering Committee, dated April 14, 1995, recommending Council action include approval of CDBG Steering Committee recommendations. (4) Memorandum from Director of Housing, Alex Sanchez, dated May 2, 1995, responding to additional concerns proposed by the Affordable Housing Network regarding its recommendations on the Consolidated Plan. (5) Memorandum from Director of Housing, Alex Sanchez, dated May 2, 1995, submitting to Council the advertisement from the Affordable Housing Network encouraging its members to attend the Council meeting on the 1995-2000 Consolidated Plan. (6) Memorandum from Chair of the Housing Advisory Commission, Mary Helen

15a (Cont'd.)

Doherty, dated April 25, 1995, submitting the HAC's recommendations for inclusion in the ConPlan. (7) Undated document entitled *Supplemental Summary of Comments on the Consolidated Plan Draft*, as received by the Departments of Housing and Neighborhood Services from approximately 50 individuals and organizations.

Discussion/Action: Mayor Hammer opened the second public hearing on the National Affordable Housing Act Consolidated Plan (ConPlan) and stated for the record that this evening's public hearing will not include Council discussion or public testimony on the issue of 10% of the Affordable Housing Funds to be taken from low and very low income households to subsidize moderate income households. In reviewing the need for the Consolidated Plan for the years 1995-2000, Alex Sanchez stated the localities must adopt a ConPlan to be eligible to receive federal housing and community development funding, including CDBG and HOME funds. He stated the Consolidated in the ConPlan combines the Comprehensive Housing Affordability Strategy (CHAS), outlining a community's affordable housing needs and providing a plan to address those needs; the Emergency Shelter Grant Program Application (ESG), providing matching formula grants to help pay for the renovation of buildings used as emergency shelters, for shelter operating expenses, and for other essential services to the homeless; the HOME Investment Partnership Program Description (HOME), a block grant-type program that provides financial assistance to help increase the supply of affordable rental and homeownership housing for low-income households; Housing Opportunities for People With Aids Program (HOPWA), the application program that provides local jurisdictions and nonprofits with resources and incentives to devise long-term strategies for meeting the housing needs of individuals with AIDS and their families; the Community Development Block Grant Final Statement, which supports the development of viable urban communities by providing decent housing and a suitable living environment, and expanding economic opportunities, principally for low- and moderate-income households; and the newly required Non-Housing CHAS, which outlines a city's non-housing community development needs. He reviewed the ConPlan commitments and priorities, the ConPlan components, and explained citizen participation as required by federal law. He concluded with a recommendation that Council accept public testimony and approve the 1995-2000 federal Consolidated Plan, as amended, and approve other related actions as proposed. The following citizens addressed Council on the ConPlan: Ron Johnson, Saul Wachter, Billie Wachter, and Joe Zenk, representing Affordable Housing Network; Sandy Perry, representing Voice of the Homeless; The Reverend Carole Nelson-Ingram; Sister Maria Juanita van Bowmel, Emergency Housing Consortium/Affordable Housing Network; Isaac Berhe, Local 535 SEIU; Roy Stevens. Andrew Sobel and Gayle Landes, representing California-Hawaiian Mobilehome Park referenced a petition bearing approximately 227 names requesting that low-income funds be made available for low-income households.

15a (Cont'd.)

Phyllis A. Ward, affiliated with Affordable Housing Network, read into the public record a letter from Amy Dean, Business Manager, South Bay Central Labor Council recommending changes in the housing plans. The following citizens spoke in opposition to the proposed plan: William Murray Jr., Drew Farris, and William J. Garbett. In response to Mr. Sobel's comments, Mayor Hammer stated policy issues relating to mobilehome parks will be decided by the City Council and must be scheduled by the Office of the City Clerk, prior to any Council discussion or decision. Frank Jewell, CDBG Steering Committee; Randy Tamez, Disability Advisory Commission; and Ray Tovar, representing Innovative Housing, spoke separately on CDBG considerations. Upon motion by Council Member Shirakawa, seconded by Council Member, seconded by Council Member Fernandes and unanimously carried, (1) the 1995-2000 Federal Consolidated Plan, was approved as amended; (2) the Director of Housing was authorized to submit the approved document with the required certifications and other related documents to the U. S. Department of Housing and Urban Development (HUD), no later than the deadline of May 15, 1995; (3) the modification of the Community Development Block Grant Program (CDBG) application entry criteria to allow consideration of all agencies submitting 1992-93 audits with their applications, was approved; (4) regarding the contractual Community Services and Community Development Improvement categories of the (CDBG) Program, the policy recommendations pertaining to limited contract terms, placing deed restrictions on facility use, and the use of program income as described, was approved; and (5) the CDBG Steering Committee recommendation as contained in the April 14, 1995 memorandum from Council Member Shirakawa Jr. that (a) the CDBG funding recommendations as described on pages 114-122 of the draft Consolidated Plan, including the Committee's proposed changes to the Administration's recommendation; and (b) that the supplemental recommendations on limiting contract terms, placing restrictions on facility use and using program income as described on page 123 of the draft Consolidated Plan, was approved; (6) as recommended in the April 25, 1995 memorandum co-authored by Council Members Fiscalini, Powers and Shirakawa Jr., Council referred to the Housing and Community Services Committee for review and resolution prior to next year's CDBG application deadline the issue of the definition of a qualified disability in the Consolidated Plan; and (7) referred to the Mayor's Budget Office for inclusion in the Mayor's Budget Modification Memo the recommendation that supplemental funding be provided for the MACSA Youth Center. Vote: 10-0-0-0-1. Vacant: District 10.

CLOSED SESSION REPORT

City Attorney Joan R. Gallo read disclosure statement of Closed Session action of May 2, 1995.

A. Authority to Seek Further Appellate Review or Relief in A Litigation Case:

1. Case Name: The People ex rel., etc. v. Carlos Acuna, et al.
Adverse Party or Parties: Carlos Acuna. et al.
Substance of Litigation: Gang Abatement Injunctive Relief Action

Council Vote: Ayes: Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Woody; Hammer.

Noes: None.

Absent: None.

Disqualified: None.

Vacant: Council District 10.

ORAL COMMUNICATIONS

Gary Gallagher addressed Council on proposals and potential working plans.

ADJOURNMENT

The Council of the City of San Jose adjourned at 8:45 p.m. in memory of Sgt. Richard P. Reyes, 25-1/2 year veteran of the San José Police Department.

SUSAN HAMMER, MAYOR

ATTEST:

PATRICIA L. O'HEARN, CITY CLERK

RT: 05/02/95 CNCL